

## HOUSE BILL NO. 641

INTRODUCED BY M. LINDEEN

A BILL FOR AN ACT ENTITLED: "AN ACT ASSISTING WORKERS AND COMMUNITIES IN WHICH TEMPORARY OR PERMANENT BUSINESS CLOSURES HAVE OCCURRED; DECREASING THE UNEMPLOYMENT INSURANCE TAX RATE ON TAXABLE WAGES BY 0.1%; PROVIDING FOR A 0.1% ASSESSMENT ON TAXABLE WAGES TO PROVIDE EDUCATION, TRAINING, AND OTHER SERVICES TO WORKERS; ESTABLISHING AN ACCOUNT WITHIN THE STATE SPECIAL REVENUE FUND; PROVIDING FOR A STATUTORY APPROPRIATION TO THE DEPARTMENT OF LABOR AND INDUSTRY; AMENDING SECTIONS 17-7-502 AND 39-51-1218, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

WHEREAS, economic and market conditions, including energy prices, are causing businesses in the state to disappear at an alarming rate and threaten the ability of communities to thrive in a volatile economy; and

WHEREAS, these economic times place a premium on developing and retaining a workforce with the skills necessary to keep businesses in the state competitive in a global economy and to afford workers access to skills training that leads to high-wage jobs; and

WHEREAS, existing programs designed to assist workers dislocated or at risk of being dislocated in this economy do not have sufficient resources to provide the services that are necessary to assist workers to develop new work skills and obtain employment; and

WHEREAS, any state program created to supplement existing services must meet accountability standards that demonstrate an effective use of limited state resources.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Short title.** [Sections 1 through 13] may be cited as the "Workers and Industries for New Growth Solutions Act".

NEW SECTION. **Section 2. Purpose.** The purpose of [sections 1 through 13] is to:

(1) minimize and mitigate the effects of involuntary worker layoffs due to adverse economic conditions and energy rates;

(2) provide more resources to assist dislocated workers in securing education and retraining opportunities, business startup assistance, short-term financial assistance, and other services leading to reemployment in high-wage occupations;

(3) provide a consistent and sustainable approach to developing necessary program initiatives that help retain Montana businesses; and

(4) coordinate with and supplement services provided through state activities, including rapid response activities in accordance with the requirements of section 134 of the Workforce Investment Act, 29 U.S.C. 2864.

**NEW SECTION.** **Section 3. Definitions.** As used in [sections 1 through 13], the following definitions apply:

(1) "Administrative costs" means costs associated with reporting, data collection, monitoring, oversight, needs-based payment systems, and accounting.

(2) "Community enterprise center" means a temporary office located within the neighborhood or community of a business that has laid off workers and is managed by a local business support entity selected by the local board, including but not limited to a local development corporation, a small business development center agency, or other nonprofit business support program.

(3) "Department" means the department of labor and industry provided for in 2-15-1701.

(4) "Industry in transition" means an industry or business that, as a result of economic or market conditions or energy prices, ceases or curtails production or operation that results in significant employee layoffs, including but not limited to permanent, nonseasonal mass layoffs or plant closures.

(5) "Local board" means a local workforce investment board provided for in [section 5].

(6) "Secondary workers" means workers who are temporarily or permanently laid off in a community as a result of layoffs by an industry in transition, but who are not directly laid off by an industry in transition.

(7) "State board" means the state workforce investment board provided for in [section 4].

(8) "Worker adjustment services" means the employment and training services, as identified by the provider, designed to assist dislocated workers in making the transition to new employment, including

1 but not limited to:

2 (a) assessment;

3 (b) career counseling;

4 (c) development of individual employability plans;

5 (d) job placement;

6 (e) skill training assistance;

7 (f) entrepreneurial training;

8 (g) supportive services;

9 (h) needs-based payments;

10 (i) relocation assistance;

11 (j) adult education, vocational instruction, postsecondary education, skills upgrading, and  
12 retraining; and

13 (k) any other activities or services that enable dislocated workers to obtain high-wage, sustainable  
14 employment.

15 (9) "Worker at risk of dislocation" means a worker whose:

16 (a) existing position is at risk due to a pattern of previous layoffs by an individual employer;

17 (b) existing position is affected by a pattern of layoffs or plant closures in the same or similar  
18 industry sector; or

19 (c) skills have become obsolete due to advances in technology.

20 (10) "Workforce Investment area" means a local area designated by the governor in accordance  
21 with section 116 of the Workforce Investment Act, 29 U.S.C. 2831.

22  
23 NEW SECTION. **Section 4. State workforce investment board.** (1) There is a state workforce  
24 investment board.

25 (2) The state board consists of:

26 (a) the governor or a person designated by the governor to act on behalf of the governor;

27 (b) two members of the house of representatives, each from a different political party, and two  
28 members of the senate, each from a different political party, appointed by the presiding officer of each  
29 respective chamber; and

30 (c) individuals appointed by the governor, including:

(i) representatives of businesses located in Montana who:

(A) are owners of businesses, chief executive or operating officers, and other business executives or employers with optimum policymaking or hiring authority, including business members of local boards; and

(B) represent businesses with employment opportunities that reflect the employment opportunities in Montana;

(ii) chief elected officials of local government;

(iii) representatives of labor organizations;

(iv) representatives of individuals and organizations who have experience with respect to youth activities;

(v) representatives of individuals and organizations who have experience and expertise in the delivery of workforce investment activities;

(vi) representatives of the state agencies who are responsible for the programs and activities that are carried out by the one-stop centers, including but not limited to:

(A) the department of commerce;

(B) the department of labor and industry;

(C) the department of public health and human services;

(D) the office of the commissioner of higher education; and

(E) the office of public instruction; and

(vii) other representatives that the governor may designate.

(3) The selection and appointment of members of the state board must follow the nominating provisions of section 111 of the Workforce Investment Act, 29 U.S.C. 2821.

(4) The governor shall appoint enough individuals described in subsection (2)(c)(i) so that those persons compose a majority of the membership of the state board.

(5) The state board shall perform the functions described in section 111 of the Workforce Investment Act, 29 U.S.C. 2821.

**NEW SECTION.** **Section 5. Local workforce investment boards.** (1) The chief elected official or officials in each workforce investment area shall establish a local board to plan and carry out the duties and responsibilities of the local board in each respective workforce investment area of the state.

(2) Selection of the local boards must be made using the criteria established by the governor and the state board. The membership of the local board must be in accordance with the requirements of section 117 of the Workforce Investment Act, 29 U.S.C. 2832.

(3) Each local board shall carry out the duties and responsibilities of a local board as provided in section 117 of the Workforce Investment Act, 29 U.S.C. 2832.

**NEW SECTION. Section 6. Coordination of worker retraining and assistance programs.** The department shall oversee and monitor the services provided for in [sections 1 through 13] and direct the local boards to provide for the necessary and appropriate coordination between existing worker retraining assistance programs and the activities provided for in [sections 1 through 13] to:

(1) avoid duplication of services;

(2) ensure that program performance measures are compatible with the provisions of [sections 1 through 13];

(3) assist the state board and the local boards in developing eligibility standards;

(4) provide for a uniform reporting process to account for:

(a) the number of workers served;

(b) the hourly wage at job placement and projected annual earnings; and

(c) the effective management and expenditure of funds; and

(5) provide the documentation of effective community economic intervention models and the amount of other funds secured for program purposes under [section 12(2)(c)].

**NEW SECTION. Section 7. Performance standards.** The state board, in conjunction with the local boards, shall establish performance standards for activities and services administered pursuant to [sections 1 through 13], that at a minimum, provide for the placement of dislocated workers in employment that achieves the greater of either:

(1) a replacement wage of at least 80% of the dislocated worker's annual income prior to the job loss; or

(2) Montana's self-sufficiency wage calculated at \$9.59 an hour, adjusted for inflation each year following [the effective date of this act].

1        **NEW SECTION. Section 8. Dislocated worker adjustment grants.** (1) The local boards shall fund

2        dislocation grants designed to provide worker adjustment services to workers who are displaced by  
3        industries in transition or by employers that have been significantly impacted by the loss of a primary  
4        employer in the community.

5        (2) (a) Organizations may apply for a dislocated worker adjustment grant by submitting an  
6        application to the local boards in a form and manner prescribed by the local boards.

7        (b) The application must describe:

8        (i) the demonstrated need for intervention, including the need for retraining a specific group of  
9        workers affected by a reduction in force or closure;

10        (ii) the targeted workers that will be served by the grantee;

11        (iii) the coordination of additional available local resources;

12        (iv) the services to be provided; and

13        (v) the budget.

14        (3) An organization is considered eligible to receive a grant pursuant to subsection (2) if the  
15        organization has in the past demonstrated:

16        (a) the capacity to deliver worker adjustment services to accomplish the objectives in the  
17        dislocated workers' employability plans and has met the program performance standards as described in  
18        [section 7];

19        (b) the ability to coordinate activities with other education and training providers, economic  
20        development agencies, employers, and community services providers in the geographic area; and

21        (c) a sufficient and effective administrative management structure that ensures fiscal  
22        accountability.

23  
24        **NEW SECTION. Section 9. Workers at risk of dislocation -- targeted worker retention grants.** (1)

25        The local boards may award worker retention grants to organizations for education or skills-based training  
26        required by employers for workers at risk of dislocation. Grants awarded must be developed to meet  
27        worker training needs of individual employers or a collection of employers within the workforce investment  
28        area.

29        (2) An organization seeking a targeted worker retention grant to provide education and training  
30        to workers at risk of dislocation shall provide the following information to the local boards:

1 (a) a statement of need that identifies the causes contributing to the workers being at risk of  
2 dislocation;

3 (b) the prospects for continued employment for a minimum of 3 years of the workers to be  
4 trained;

5 (c) the employer's past record of laying off or terminating workers;

6 (d) the current earnings of the workers to be trained and the projected increase in earnings  
7 following the training period;

8 (e) the past history of compliance of the employer with workplace protection laws;

9 (f) a description of the current skill level of the workers targeted for training and the skills needed  
10 by the workers to significantly reduce their vulnerability to becoming displaced from employment;

11 (g) a description of the actions and investments made and planned by the employer to avert or  
12 minimize worker dislocation;

13 (h) a training plan that details employee participation in its design and implementation. The plan  
14 must identify the workers to be trained, the type and scope of the training to be provided, and the  
15 providers of the training.

16 (i) evidence that, when there is a collective bargaining agreement in place, the appropriate  
17 organized labor representatives have been involved in and consulted on the training plan.

18 (3) Employers benefiting from a grant provided for in this section shall:

19 (a) provide for either a direct one-to-one monetary match or the equivalent value for employer  
20 costs for equipment, staff, instructors, or work release time for workers enrolled in training; and

21 (b) maintain the employer's past rate of expenditure from other sources for training during the  
22 grant period.

23 (4) An employer may not receive a grant under this section if the employer has workers in a layoff  
24 status unless the layoff is temporary or seasonal.

25  
26 **NEW SECTION. Section 10. Worker eligibility -- exhaustion of other benefits -- priority.** (1)

27 Dislocated workers or workers at risk of dislocation shall identify services or training that they are eligible  
28 to receive or are receiving from other sources. Providers shall ensure that funds available under the  
29 provisions of [sections 1 through 13] are used to supplement and not duplicate funds expended by other  
30 sources or programs.

(2) Dislocated workers or workers at risk of dislocation may be eligible for assistance under the provisions of [sections 1 through 13] if the workers' primary assistance programs or benefits have been exhausted or are insufficient to meet the workers' training needs or if the workers are not eligible for worker retraining assistance under existing programs.

(3) (a) Workers receiving program services, including services designed to provide a multiyear employability plan, pursuant to [sections 1 through 13], must be given priority over new workers who are eligible for enrollment in other job training programs in the event that the assessment provided for in [section 11] ceases to be assessed and the revenue in the account provided for in [section 12] is expended.

(b) The local boards, in conjunction with service providers, shall provide for the orderly transition and prioritization of workers between existing programs and services and programs and services provided for in [sections 1 through 13].

**NEW SECTION. Section 11. Assessment -- rate.** (1) An assessment equal to 0.1% of all taxable wages provided for in 39-51-1108 must be levied against and paid by all experience-rated employers in a calendar year in which the ratio of the balance of the unemployment trust fund to total wages as calculated in the last quarter of the calendar year is .0262 or greater, pursuant to the ratios provided in 39-51-1218. All assessments and investment income must be deposited in the workers and industries for new growth solutions account provided for in [section 11].

(2) If, in any calendar year when the assessment provided for in subsection (1) is in effect, the ratio of the balance of the unemployment trust fund to total wages as calculated in the last quarter of the calendar year is .0261 or less, the assessment for the following calendar year provided for in subsection (1) must be deposited in the unemployment insurance fund provided for in 39-51-401.

(3) All of the funds deposited in the account provided for in [section 12] remain in the account and may be expended whether or not the assessment provided for in subsection (1) is in effect.

**NEW SECTION. Section 12. Workers and industries for new growth solutions account -- purpose -- priorities -- appropriation.** (1) There is a workers and industries for new growth solutions account in the state special revenue fund.

(2) (a) A minimum of 83% of the funds in the account must be designated to directly support



training and other activities that conform with workers' individual employability plans. The training funds must be prioritized to serve the following participant groups:

- (i) secondary workers who become dislocated when a primary industry closes or experiences a significant labor force reduction;
- (ii) farmers and ranchers who become dislocated;
- (iii) workers who are underemployed or at risk of dislocation; and
- (iv) primary workers dislocated by major layoffs and workforce reductions if those workers do not qualify for federal trade adjustment assistance funding or if the workers' funding under the federal trade adjustment assistance program or the Workforce Investment Act has expired.

(b) An amount of up to 5% of the funds in the account may be used by the local boards to provide short-term, high-impact grants to local business support entities to establish satellite community enterprise centers. The business support entity shall:

- (i) hire and train temporary staff from the workers dislocated by the reduction or closure of business in the community;
- (ii) provide regular, onsite visits to the enterprise center, along with daily guidance and technical assistance;
- (iii) provide for extended hours for servicing dislocated workers, including the use of personal computers, job search materials, occupational training reference materials, and other appropriate information; and
- (iv) provide peer counseling in job searching, exploration of training opportunities, and support for business startup and expansion.

(c) An amount of up to 2% of the funds in the account may be used by the local boards to support activities and staff to obtain additional funding from nonstate sources. All of the additional funds obtained must be used to increase resources available to carry out the purposes of [sections 1 through 13].

(d) An amount, not to exceed 10% of the funds in the account, may be used for administrative costs in the following schedules:

- (i) 1% by the department of revenue;
- (ii) 1% by the department of labor and industry;
- (iii) 4% by the local boards; and
- (iv) 4% by the service providers.

(3) The account is statutorily appropriated, as provided in 17-7-502 to the department of labor and industry for the purposes described in subsection (2). The department may not increase staffing levels to administer the provisions of [sections 1 through 13].

**NEW SECTION. Section 13. Transfer of funds.** (1) The state treasurer shall transfer an amount equal to 99% of the assessment collected pursuant to [section 11] to the account provided for in [section 12] no later than 45 days following the end of each calendar quarter in which the assessment is being collected.

(2) The department shall provide for the availability of funds, less the department's administrative costs provided for in [section 12], for use by the local boards for the purposes provided for in [sections 1 through 13].

**Section 14.** Section 17-7-502, MCA, is amended to read:

**"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-17-105; 3-5-901; 5-13-403; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-23-706; 15-31-702; 15-34-115; 15-35-108; 15-36-324; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 16-1-404; 16-1-406; 16-1-411; 17-3-106; 17-3-212; 17-3-222; 17-6-101; 17-7-304; 18-11-112; 19-3-319; 19-6-709; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 20-8-107; 20-26-1503; 22-3-1004; 23-5-136; 23-5-306; 23-5-409; 23-5-610; 23-5-612; 23-5-631; 23-7-301; 23-7-402; 37-43-204; 37-51-501; [section 12]; 39-71-503; 42-2-105; 44-12-206; 44-13-102; 50-4-623; 53-6-703; 53-24-206; 67-3-205; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 77-1-505; 80-2-222; 80-4-416; 80-11-518; 81-5-111; 82-11-161; 87-1-513; 90-3-1003; 90-6-710; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 7, Ch. 567, L. 1991, the inclusion of 19-6-709 terminates upon death of last recipient eligible for supplemental benefit; pursuant to Ch. 422, L. 1997, the inclusion of 15-1-111 terminates on July 1, 2008, which is the date that section is repealed; pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of 19-20-604 terminates when the amortization period for the teachers' retirement system's unfunded liability is 10 years or less; pursuant to sec. 4, Ch. 497, L. 1999, the inclusion of 15-38-202 terminates July 1, 2014; and pursuant to sec. 10(2), Ch. 10, Sp. L. May 2000, the inclusion of 15-35-108 and 90-6-710 terminates June 30, 2005.)"

14

**Section 15.** Section 39-51-1218, MCA, is amended to read:

**"39-51-1218. Rate schedules.**

SCHEDULES OF CONTRIBUTION RATES - Part I

	Sched. I	Sched. II	Sched. III	Sched. IV
Minimum Ratio of				
Fund to				
Total Wages	(.0260)	(.0245)	(.0225)	(.0200)
Average Tax Rate	<del>1.37</del> <u>1.27</u>	1.57	1.77	1.97
Rate Class	Contribution Rates for Eligible Employers			
1	0.00%	0.07%	0.27%	0.47%
2	<del>0.07</del> <u>0.00</u>	0.27	0.47	0.67
3	<del>0.27</del> <u>0.17</u>	0.47	0.67	0.87
4	<del>0.47</del> <u>0.37</u>	0.67	0.87	1.07
5	<del>0.67</del> <u>0.57</u>	0.87	1.07	1.27
6	<del>0.87</del> <u>0.77</u>	1.07	1.27	1.47

1	7	<del>1.07</del> <u>0.97</u>	1.27	1.47	1.67
2	8	<del>1.27</del> <u>1.17</u>	1.47	1.67	1.87
3	9	<del>1.47</del> <u>1.37</u>	1.67	1.87	2.07
4	10	<del>1.67</del> <u>1.57</u>	1.87	2.07	2.27
5	Rate Class		Contribution Rates for Deficit Employers		
6	1	<del>3.17%</del> <u>3.07%</u>	3.37%	3.57%	3.77%
7	2	<del>3.37</del> <u>3.27</u>	3.57	3.77	3.97
8	3	<del>3.57</del> <u>3.47</u>	3.77	3.97	4.17
9	4	<del>3.77</del> <u>3.67</u>	3.97	4.17	4.37
10	5	<del>3.97</del> <u>3.87</u>	4.17	4.37	4.57
11	6	<del>4.17</del> <u>4.07</u>	4.37	4.57	4.77
12	7	<del>4.37</del> <u>4.27</u>	4.57	4.77	4.97
13	8	<del>4.57</del> <u>4.47</u>	4.77	4.97	5.17
14	9	<del>4.77</del> <u>4.67</u>	4.97	5.17	5.37
15	10	6.37	6.37	6.37	6.37

16

## 17 SCHEDULES OF CONTRIBUTION RATES - Part II

18	Sched.	Sched.	Sched.	Sched.	Sched.	Sched.
19	V	VI	VII	VIII	IX	X
20	(.0170)	(.0135)	(.0095)	(.0075)	(.0050)	(....)
21	2.17	2.37	2.57	2.77	2.97	3.17
22	Contribution Rates for Eligible Employers					
23	0.67%	0.87%	1.07%	1.27%	1.47%	1.67%
24	0.87	1.07	1.27	1.47	1.67	1.87
25	1.07	1.27	1.47	1.67	1.87	2.07
26	1.27	1.47	1.67	1.87	2.07	2.27
27	1.47	1.67	1.87	2.07	2.27	2.47
28	1.67	1.87	2.07	2.27	2.47	2.67
29	1.87	2.07	2.27	2.47	2.67	2.87
30	2.07	2.27	2.47	2.67	2.87	3.07

1	2.27	2.47	2.67	2.87	3.07	3.27
2	2.47	2.67	2.87	3.07	3.27	3.47
3	Contribution Rates for Deficit Employers					
4	3.97%	4.17%	4.37%	4.57%	4.77%	4.97%
5	4.17	4.37	4.57	4.77	4.97	5.17
6	4.37	4.57	4.77	4.97	5.17	5.37
7	4.57	4.77	4.97	5.17	5.37	5.57
8	4.77	4.97	5.17	5.37	5.57	5.77
9	4.97	5.17	5.37	5.57	5.77	5.97
10	5.17	5.37	5.57	5.77	5.97	6.17
11	5.37	5.57	5.77	5.97	6.17	6.37
12	5.57	5.77	5.97	6.17	6.37	6.37
13	6.37	6.37	6.37	6.37	6.37	6.37"
14						

15        **NEW SECTION.** **Section 16. Codification instruction.** [Sections 1 through 13] are intended to be  
16 codified as an integral part of Title 39, chapter 51, and the provisions of Title 39, chapter 51, apply to  
17 [sections 1 through 13].

18

19        **NEW SECTION.** **Section 17. Effective date.** [This act] is effective on passage and approval.

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21        **NEW SECTION.** **Section 18. Applicability.** The assessment provided for in [section 11] applies  
22 to wages paid for the calendar quarter beginning April 1, 2001.

23

- END -